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ON PAGE A 8

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U.S. Asks Delay In Wiretap Suit Against Nixon

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The Justice Department asked the Supreme Court yesterday to reconsider its June 22 ruling that former president Richard M. Nixon and his top aides could be brought to trial for illegal wiretapping to trace news leaks on foreign policy.

The ruling was a 4-to-4 affirmation of a District of Columbia federal appeals court decision that former White House aide Morton Halperin could bring suit against Nixon and his advisers for tapping his home telephone.

That ruling is to be made official at the end of July, allowing Halperin's lawyers to press for trial.

But Justice Department lawyers, representing Nixon, asked the court to postpone making its ruling final until it rules on a suit by former Pentagon official Ernest Fitzgerald, who contends he was fired because he exposed aircraft cost overruns.

The government lawyers, who contend Nixon is immune from civil suits seeking damages for actions he took as president, argued that if the Halperin case is allowed to go to trial now, "any immunity" from civil damages the court approves later for Nixon in the Fitzgerald case "may be irretrievably lost."

The high court's June 22 deadlock came because Justice William H. Rehnquist, a top Justice Department official during the Nixon era, did not take part in the case.

The 4-to-4 vote vote automatically upheld the lower court's ruling in the particular case, but it did not establish precedents for other courts to follow in similar cases.